IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.641 OF 2005

Vijay Shah ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. Subhash Jha, for the Applicant.

Mr. R.Y. Mirza, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

4th February 2005

P.C.:

. Heard Counsel for the parties. Perused the record. It is seen that the only evidence, which is relied upon by the prosecution to indicate the complicity of the Applicant is the statement made by co-accused Raju before the police and to corroborate the facts stated therein, reliance is placed on the fact that the Applicant visited Dubai during the relevant time. In any case, this will not be enough to proceed

against the Applicant. Statement of the co-accused recorded before the police has no evidentiary value. Even assuming that the same should be reckoned for the purpose of considering prayer for bail, the only other circumstance, which is relied, is the fact that the Applicant visited Dubai during the relevant time. Taking overall view of the matter and the fact that the Applicant is being proceeded against in respect of controversy which took place in April 2000, coupled with the fact that custodial interrogation of the Applicant is not necessary, as is accepted by the learned A.P.P. on instructions, the Applicant deserves to be enlarged on bail on the following conditions.

(A) The Applicant is granted bail in connection with CR.No. 97/2004 registered with D.C.P., C.I.D. Crime Branch, Mumbai, on executing personal bond in the sum of Rs. 1 lakh with two local sureties in the like amount.

(B) The Applicant shall attend the concerned Police Station once a week till

the filing of the charge sheet, on Saturday between 10 a.m. to 2 p.m.

(C) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(D) The Applicant shall co-operate with the trial Court for early disposal of the trial. If the trial Court is of the opinion that the Applicant is in any manner responsible for delay in disposal of the trial, that fact be recorded in the roznama, which can be a ground for cancellation of bail.

(E) The Applicant shall not leave the jurisdiction of the local police station without prior intimation to the investigating officer or the trial Court.

(F) The Applicant be initially released on furnishing cash security, to be substituted by appropriate security in

the amount referred to above, within two weeks from the date of release.

. While parting, I may observe that some controversy was raised regarding the appropriateness of Mr. Jha appearing in the case for the Applicant. Suffice it to observe that that cannot be the basis for deciding the bail application, but it will be open to the parties to take recourse to such remedy as may be permissible by law in regard to that controversy.

(A.M.KHANWILKAR,J.)